808 KAR 9:010. Administration and enforcement of KRS 286.9-140 to ensure that check cashers do not violate the law against multiple transactions in excessive amounts by a customer.

RELATES TO: KRS 286.9-010(6), 286.9-075, 286.9-100(1), (7), (9), (10), (18), (19), 286.9-140
STATUTORY AUTHORITY: KRS 286.9-090(1), 286.9-100, 286.9-140(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.9-100(9) prohibits licensees from having more than two (2) deferred deposit transactions from a customer at a time. The total proceeds received by a customer from all deferred deposit transactions from all licensees shall not exceed $500 at any one (1) time. KRS 286.9-140(1) directs the commissioner to implement a common database with real-time access through an internet connection accessible to the department and a licensee to verify whether any deferred deposit transactions are outstanding for a particular person and, which in addition to the general grant of authority in KRS 286.9-090(1), authorizes the commissioner to promulgate an administrative regulation to enforce KRS 286.9-140. This administrative regulation establishes requirements for a licensee to ensure that the database established pursuant to KRS 286.9-140 is used by licensees in accordance with KRS Chapter 286.9.

Section 1. Definitions. The following shall be additional definitions of "closed" or "close" under KRS 286.9-010(6)(e):
(1) The customer's payment instrument was unpaid and the licensee has sold the underlying debt to a non-affiliated third party without recourse;
(2) The underlying debt represented by the customer's payment instrument has been discharged in bankruptcy;
(3) The database provider has designated the deferred deposit transaction concerning the customer's payment instrument as closed pursuant to KRS 286.9-140(7); or
(4) The licensee has reported to the database provider that the deferred deposit transaction concerning the customer's payment instrument is closed following being held open pursuant to KRS 286.9-140(7).

Section 2. Deferred Deposit Database Requirements. (1) A licensee shall institute procedures and maintain an accounting system that is designed to:
(a) Prevent the licensee from entering into transactions with a customer in violation of KRS 286.9-100(9), including procedures for:
1. Maintaining a record of all current transactions with the licensee; and
2. Checking the record of current transactions with the database prior to issuance of a new transaction; and
(b) Generate reports that will readily permit examination and verification of compliance with KRS 286.9-100(9), KRS 286.9-140, and this section by department examiners.
(2) In addition to the data listed in KRS 286.9-140(1), licensees shall submit the following data to the database for each deferred deposit transaction:
(a) The customer's date of birth;
(b) The check number of the payment instrument;
(c) The database verification fee charged to the customer, if any;
(d) The service fee charged to the customer; and
(e) The date the payment instrument was deposited or otherwise presented for payment.
(3) A licensee shall not cause a closed deferred deposit transaction to be reopened in the database unless all of the following conditions are satisfied:

(a) The deferred deposit transaction was closed by reason of clerical error by the licensee;

(b) The licensee causes the deferred deposit transaction to be reopened on or before the close of business on the business day after the transaction was closed; and

(c) Reopening the transaction would not cause the consumer to exceed the transaction limits set forth in KRS 286.9-100(9).

(4) A licensee shall not accept, collect, or seek payment on a deferred deposit transaction that is designated as closed in the database.

(5) A licensee that has reported to the database provider that a deferred deposit transaction is open beyond the maturity date pursuant to KRS 286.9-140(7) shall immediately notify the database provider when the transaction becomes closed.

(6)(a) Except as provided in paragraph (b) of this subsection, each licensee shall achieve compliance with this administrative regulation within sixty (60) days of the effective date of this administrative regulation.

(b) After the sixty (60) day period established in paragraph (a) of this subsection, a new licensee or an existing licensee applying for an additional location, shall demonstrate the ability to immediately comply with this administrative regulation at the time of application. (27 Ky.R. 1707; Am. 2788; eff. 4-9-2001; TAm eff. 5-2-2007; 41 Ky.R. 2634; 42 Ky.R. 686; eff. 9-22-2015.)